

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11 CR 11 MR WCM**

UNITED STATES OF AMERICA)	
)	
v.)	ORDER
)	
DAVID JOSEPH GEARING)	
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This matter came before the undersigned on January 29, 2021 for a status conference which was held via video teleconference. The Government was represented by Deputy Criminal Chief Don Gast. Assistant Federal Public Defender Fredilyn Sison appeared for Mr. Gearing. Also appearing were United States Probation Officer Sam Edmundson of the Western District of North Carolina and United States Probation Officer Erica Foy of the Eastern District of North Carolina. Mr. Gearing's presence had been excused previously, and counsel confirmed that his presence was not required at the status conference.

Officer Foy, who is Mr. Gearing's supervising officer, provided a report regarding his current status and Ms. Sison provided additional information regarding her interactions with Mr. Gearing.

The undersigned also inquired of the parties regarding the need for future progress/status reports and the timing of such reports. Both counsel for

the Government and defense counsel advised that they believe Mr. Gearing can remain under supervision under the current conditions indefinitely, pursuant to 18 U.S.C. § 4246. They also indicated that they did not object to status reports being provided by the Probation Office, though the Government did suggest that the Probation Office should also report if there were to be any change in Mr. Gearing's circumstances.

Officer Foy advised that, for persons being supervised under 18 U.S.C. § 4246, her office typically files annual reports, though she noted that in this case the Probation Office in the Western District has been proactively reaching out for updates regarding Mr. Gearing more frequently.

Neither the Government nor defense counsel requested that a hearing be conducted pursuant to 18 U.S.C. §4246(e) to determine whether Mr. Gearing's conditions of release should be modified or eliminated

The undersigned appreciates the information provided by counsel for the parties as well as by Officer Foy and Officer Edmundson. Having considered that information and the record in this matter, the undersigned concludes that it would be appropriate for reports concerning Mr. Gearing to be submitted on a regular basis. Specifically, the Probation Office will be directed to file reports every six months regarding Mr. Gearing's status and condition, provided however that any material change should be reported more promptly if it were to occur. This Order does not modify the existing conditions of Mr. Gearing's

supervision, nor does it restrict the parties from seeking a modification or elimination of those conditions in the future, as they may deem appropriate.

It is so ordered.

Signed: February 1, 2021

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

